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EXAMINER

GRAVINI, STEPHEN MICHAEL

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3749

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/726,986
Filing Date: December 03, 2003
Appellant(s): SUDA ET AL.

MAILED
FEB 02 2007
Group 3700

Joseph A. Powers
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 21, 2006 appealing from the Office action mailed February 24, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is substantially correct. See (7) Claims Appendix below.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. Although appellants' amendment after final action was intended to be entered based on an interview summary believed to have been sent (but not scanned into the application image file wrapper) with the advisory action mailed May 17, 2006, the application file is not clear of this amendment along the corrected identification of claim 35 as being anticipated by Brelsford. Currently, the file shows that claim 34 is rejected by both Haddox and Brelsford, but it is believed that examiner correctly identified to appellant's representative that the second rejection of claim 34 was a typographical error such that claim 35 is rejected under Brelsford and not Haddox, in that same interview. This answer will correctly address all claims as believed to be consistent with appellants' and Office's intention.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

claims 1, 3-4, 16, 21, 32, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by over Haddox (US 2,830,648) and claims 8, 10-15, 22-29, 33, and 35 (not 34) are rejected under § 102 as being anticipated by Brelsford (US 2,467,291). Please note that claim 33 was originally rejected as being anticipated by Haddox (US 2,830,648), but that claim was addressed under the Brelsford anticipation rejection. Examiner erred by including claim 33 as being anticipated by Haddox, but corrected the rejection such that the claim number is addressed with that claim subject matter as addressed in the Brelsford rejection below. It is believed that this error may constitute a new grounds of rejection. Appellants have amended claim 35 such that it now recites a method depending upon another method instead of ambiguously reciting a system depending upon a method. It was unclear to the examiner whether the earlier recited system was intended to be dependent upon a system or method, since both are different classes of statutory subject matter and were examined differently; and

claims 7 and 10 are rejected under § 103 as being obvious over Haddox in view of Fleissner (US 3,413,731 not 3,414,731). It is believed that appellants' differing identification of Fleissner does not impact the grounds on appeal.

NEW GROUNDS OF REJECTION

Claims 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Brelsford et al. (US 2,467,291). Claims 8, 10-15, and 22-29 are construed to be anticipated by Brelsford in an earlier action and answered in this action to appellants' brief. The rejection of those claims, along with now rejected claims 33 and 35, are discussed here and below. Claims 33 and 35 are construed to disclose spaced flights (as shown in figures 1, 4, 6, and 7) having perforations to meet the claimed intended use of allowing heated air to pass through the flights at column 9 line 50 through column 10 line 5 because the disclosed partition openings are construed perforations to those skilled in the art.

(7) Claims Appendix

A substantially correct copy of appealed claims 1, 3-4, 7-8, 10-16, and 20-35 appears on pages 12-14 of the Appendix to the appellant's brief. The minor differences are as follows:

claim 30 now recites "...forms nip zone..." although it earlier recited "...forms a nip zone..." as discussed above; and

claim 35 now recites the "method claim 25" but will be construed as the "method of claim 25."

Examiner will answer appellants' brief such that claim 30 has the same patentably meaning, regardless of the antecedent identifier for the claimed nip zone. Claim 35 will be construed as a method depending upon claim method claim 25 instead of the system depending upon a system claim.

(8) Evidence Relied Upon

2,830,648	HADDOX	4-1958
2,467,291	BRELSFORD et al.	4-1949
3,413,731	FLEISSNER	12-1968
6,357,504	PATEL et al.	3-2002

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

Claims 1, 3-4, 16, 21, 32, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by over Haddox (US 2,830,648). Claim 33 was originally rejected as being anticipated by Haddox, but that claim is now rejected as being anticipated by Brelsford. Haddox is construed to disclose a curing oven tower **40** for heating an uncured or partially cured insulation mat (wherein the "for heating" recitation is construed a statement of intended use and does not distinguish the claimed invention over the structure disclosed in the prior art because the structure of the prior art can be used fore heating) said curing oven tower comprising a plurality of vertical oven zones **39, 31** comprising heat sources (please see column 1 line 66 through column 2 line 23 for the expressed disclosed heat sources), and a conveyor system **26** comprising a plurality of pairs of counter rotating conveyors **58, 60, 49, 50, 27** disposed to move said mat though said plurality of vertical oven zones for curing (wherein the "for curing" recitation is construed a statement of intended use and does not distinguish the claimed invention over the structure disclosed in the prior art because the structure of the prior art can be

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used fore curing), said mat being disposed between said counter rotating conveyor as shown in figures 1, 2, 4, and 5; or alternatively:

a curing oven tower **40** for heating an uncured or partially cured fiberglass insulation mat (wherein the “for heating” recitation is construed a statement of intended use), said curing oven tower comprising a heat source (please see column 1 line 66 through column 2 line 23 for the expressed disclosed heat source), and a conveyor system comprising cooperable pairs of counter-rotating conveyors **58, 43, 49, 50, 27** arranged for moving said insulation mat both vertically and horizontally through said curing oven tower in a serpentine path wherein figures 1, 2, 4 show the horizontal and vertical serpentine conveying motion claimed since the disclosed insulation mat is moved in two planar directions. Two planar directions to those skilled in the art represent a horizontal and vertical serpentine conveying motion because figures 1, 2, 4, and 5 show a mat conveying movement in and up and down, back and forth motion which the reasonably and broadly construed “serpentine” is anticipated by those teachings. Figure 4 of Haddox is construed to show the claimed vertical path overlapping itself. Haddox is also construed to disclose the claimed conveyor perforations at column 2 lines 17-18 wherein foraminous belt is construed perforated to one skilled in the art.

Claims 8, 10-15, 22-29, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Brelsford et al. (US 2,467,291). Brelsford is construed to disclose moving an uncured or partially cured insulation through a curing oven tower at column 7 line 43 through column 10 line 52, said oven curing tower comprising a plurality of

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vertical oven zones **112, 113** comprising heat sources, said moving step including the step of moving the insulation mat through the plurality of vertical oven zones **81, 82, 83** for curing (wherein the "for curing" recitation is construed a statement of intended use and does not distinguish the claimed invention over the structure disclosed in the prior art because the structure of the prior art can be used for curing); or alternatively; moving an uncured or partially cured insulation through a curing oven tower both horizontally and vertically in a serpentine path through a curing oven tower comprising a heat source at column 7 line 43 through column 10 line 52, and as shown in figures 1, 2, 5, and 6. Brelsford is also construed to disclose the claimed path vertically overlaps itself, the moving step includes the step of conveying said insulation mat with a plurality of conveyors disposed to move the insulation mat both horizontally and vertically through the oven tower, a plurality of pairs of counter rotating conveyors that cooperate to move the mat through the oven tower, and top to bottom recirculating air in figures 1 and 2. Brelsford, as originally rejected, is construed to anticipate the claimed perforations to meet the claimed intended use of allowing heated air to pass through the flights at column 9 line 50 through column 10 line 5 because the disclosed partition openings are construed perforations to those skilled in the art.

Claim Rejections - 35 USC § 103

Claims 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haddox in view of Fleissner (US 3,413,731). Haddox is construed to disclose the claimed invention, as rejected above, except for the claimed top to bottom recirculating means. Fleissner, another mat curing system, is construed to disclose a top to bottom

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recirculating means at column 3 line 47 through column 4 line 79. It would have been obvious to one skilled in the art to combine the teachings of Haddox with the top to bottom recirculating means, construed disclosed in Fleissner, for the purpose of using a fluid to facilitate a curing process.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haddox in view of Patel et al. (US 6,357,504). Haddox is construed to disclose the claimed invention, as rejected above, except for the claimed nip zone. Patel, another mat curing system, is construed to disclose a nip zone at column 12 lines 22-65. It would have been obvious to one skilled in the art to combine the teachings of Haddox with the nip zone, construed disclosed in Patel, for the purpose of using a zone to facilitate a curing process.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brelsford in view of Patel et al. (US 6,357,504). Brelsford is construed to disclose the claimed invention, as rejected above, except for the claimed nip zone. Patel, another mat curing system, is construed to disclose a nip zone at column 12 lines 22-65. It would have been obvious to one skilled in the art to combine the teachings of Brelsford with the nip zone, construed disclosed in Patel, for the purpose of using a zone to facilitate a curing process.

(10) Response to Argument

Appellant's arguments filed August 21, 2006 have been fully reviewed but they are not persuasive.

Haddox anticipation rejection of claim 1

Appellant argues that "the recited conveyor system must be located within the curing oven tower." Current Office practice governs examination such that claims are reasonably and broadly construed in light of the accompanying specification. Claim 1 recites a system comprising: ~

a curing oven tower comprising:

a plurality of vertical oven zones comprising:

heat sources; and

a conveyor system comprising:

a plurality of pairs of counter-rotating conveyors disposed to move a mat through said plurality of vertical oven zones; said mat being disposed between said counter-rotating conveyors.

Nothing in that claim recites that the recited conveyor system must be located within the curing oven tower since the curing oven tower and conveyor are recited as separate structural elements. The argued conveyor system location would impose a narrower claim construction than permitted by current Office practice, as emphasized in an earlier Advisory action. Arguably, even though the conveyor system moves a mat through the oven zones, the claim is not limited such that the system "must" be within the tower.

Furthermore, appellant argues that "the conveyor of Haddox only moves the insulation mat vertically outside the curing oven." This argument is not believed to overcome the prior art anticipatory rejection because the independently claimed

invention is not limited to vertical insulation movement inside the oven. Appellant also argues that element **31** is not a vertical oven zone with a heat source. However in column 2, beginning on line 4 of Haddox, a "gaseous blast **18** of intense heat produced by a combustion type burner **19**" is construed to expressly anticipate the claimed oven zone[s] because in both cases a high temperature zone of heat, as in an oven, is used for treating a mat which is consistent with the oven zone specified in appellants' specification paragraph [0005]. To those skilled in the art, intense heat by a combustion burner in an enclosure defines an oven. In summary, the independently claimed invention is not limited to be "within the oven," so the Office broadly and reasonably construes each claimed element reasonably in light of the specification such that Haddox discloses the invention as claimed. The rejection of claim 1 is believed proper.

Haddox anticipation rejection of claims 3, 4, 16, 21, 32, and 34

Claims 3 and 16 recite mat movement both horizontally and vertically through the curing oven tower in a serpentine path with claim 4 and 21 reciting that the path overlaps itself. Appellant defines serpentine in specification paragraph [0019] as a "path that has one or more turns" and the "path overlaps itself vertically." In figures 1, 2, and 4 of Haddox, inclined collection surface **25** of belt **26** moves mat **37** (at column 2 lines 24-52) horizontally and vertically and after passing up the inclined area **25**, the belt **26** moves rearwardly in a horizontal plane between upper and lower sections **38** and **39** of an oven **40** (column 2 line 58-61). To those skilled in the art, Haddox expressly discloses the claimed mat movement both horizontally and vertically through the curing oven tower in a serpentine path because the disclosed mat moves horizontally then

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vertically downward overlapping itself. Again, since that path is not claimed such that must be in the oven, the location of the path outside or inside the oven is irrelevant since both the claimed invention and prior art teach a path through an oven. The rejection of claims 3-4, 16, 21, 32, and 34 is believed proper.

Haddox/Brelsford anticipation rejection of claim 33

Appellants argue the patentability of claim 33, as dependent upon claim 13, as not being anticipated by Haddox, which examiner concurs. However claim 33 is now rejected under Brelsford and not Haddox. It is believed that this anticipation might be considered a new grounds of rejection, because the subject matter of claim 33 was addressed under the Brelsford anticipatory rejection because the perforations of the Brelsford figures 1, 4, 6, and 7 spaced flights have perforations to allow heated air flow, as claimed. However it will be treated as a new grounds of rejection in this action.

Brelsford anticipation rejection of claims 8 and 14-15

Although appellants identifies claims 8, 10-15, 22-29, and 34 as being anticipated by Haddox on page 6 of the appeal brief, this answer will address those claims, except claim 35 instead of claim 34, as rejected by Brelsford and as discussed above.

Appellants argue that the claimed curing oven tower comprising a plurality of vertical oven zones and moving a mat through the plurality of vertical oven zones are patentable over Brelsford. Appellant points to figure 7 such that the horizontal burners **98** are not construed as forming vertical oven zones. However to those skilled in the art figures 1, 6, and 7 show burners **98a** at different vertical levels as discussed at column 9 lines 2-23 and these different horizontal burners at a plurality of vertical levels would

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form vertical oven zones, as claimed. The vertical partitions identified in the rejection merely illustrate the claimed vertical zones. Appellants also argue the direction of mat conveying is patentable over Brelsford, but as claimed the mat only need to move through the plurality of oven zones. Brelsford teaches this claimed feature as rejected above and discussed here. The rejection of claims 8 and 14-15 is believed proper.

Brelsford anticipation rejection of claims 10-13 and 22-29

Appellant argues that the claimed vertical and horizontal mat movement through the curing oven in a serpentine path is not found in Brelsford. It can be seen in figure 6 of that reference that the raised angle portion of conveyor designated near reference character 86, shows a vertical and horizontal component of mat such that it inherently anticipates the claimed serpentine path because the claimed horizontal and vertical mat motion of that reference would cause a serpentine path as claimed. Furthermore, appellants are giving the claim a narrower meaning than permitted by current Office practice because figure 1 of also shows the claimed vertical and horizontal mat movement through the curing oven in a serpentine path is reasonably and broadly construed from appellants' specification to move a mat both horizontally and vertically in a serpentine path, and the down apron or cross lapper, which ultimately moves the mat through the oven. Because this movement is not recited within the oven, the Office is constrained to construe the claim as rejected. The rejection of claims 10-13 and 22-29 is believed proper.

Brelsford anticipation rejection of claims 11-12, 26, and 29

Appellant argues that the claimed vertical and horizontal mat movement through the curing oven in a serpentine path is patentable over Brelsford but that feature is reasonably and broadly construed from appellants' specification to move a mat both horizontally and vertically in a serpentine path, which moves through the oven, as discussed above. Because this movement is not recited within the oven, the Office is constrained to construe the claim as rejected. The rejection of claims 11-12, 26, and 29 is believed proper.

Brelsford anticipation rejection of claims 13 and 25

Appellant argues that the claimed plurality of pairs of counter rotating conveyors that cooperate to move the mat through the tower is patentable over Brelsford. It can be seen from figure 1 that the down apron or cross lapper shows a pair of counter rotating cooperating conveyors **25, 26, 27, 28, 29, or 51** that move a mat through the tower, because to those skilled in the art if any one of those rotating cooperating conveyors were to stop or not cooperate, then the mat would not move through the tower. That feature is reasonably and broadly construed from appellants' specification to move a mat through the tower. Because this movement is not recited within the oven, the Office is constrained to construe the claim as rejected. The rejection of claims 13 and 25 is believed proper.

Brelsford anticipation rejection of claim 35

Appellant does not argue the patentability of claim 35 over the prior art and therefore the rejection of claim 35 is believed proper. Claim 35 was misidentified in an

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earlier action, but believed to be corrected in discussion with appellants' representative. However, claim 35 will be treated as a new grounds of rejection.

Haddox in view of Fleissner obviousness rejection

Appellant argues that because the anticipatory rejections are overcome so should the obviousness rejections. The anticipatory rejections are believed proper, therefore, the obviousness rejections are believed proper.

Haddox or Brelsford in view of Patel obviousness rejection

Appellant argues that the claimed nip zone including at least one inclined belt for receiving an inclined mat is not an obvious variation of either primary references Haddox or Brelsford in view of Patel. This feature does not define the claimed invention over the prior art on two grounds. First, Patel was not cited to show the incline feature since that feature is disclosed in both Haddox and Brelsford as rejected above. Second, Patel also shows that the zone defining a nip or pinch includes at least one inclined belt would could be used for the claimed intended use for receiving an insulation mat as see from figure 10. The obviousness rejections are believed proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer

exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

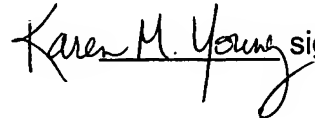
Respectfully submitted,

Stephen Gravini

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A Technology Center Director or designee must personally approve the new grounds of rejection set forth in section (9) above by signing below:

Karen M. Young, TC 3700 Director

 signature

Conferees:

Janet Baxter (TQAS)

 initials

Josiah Cocks

 initials